

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JOHN KEVIN KENNEDY & LISA
ANNE KENNEDY,

Plaintiffs,

v.

Case No. 4:12-cv-726

BAC HOME LOANS SERVICING,
LP

and

Kozeny & McCubbin, L.C.,

Defendants

**PLAINTIFFS' MOTION FOR ADDITIONAL TIME TO RESPOND TO
DEFENDANT BANK OF AMERICA'S MOTION TO DISMISS**

In support of their motion for additional time, Plaintiffs state as follows:

1. This case was removed to this Court from Jefferson County on April 24, 2012.
2. On May 24, 2012, Defendant Bank of America filed a Motion to Dismiss.
3. On June 6, 2012, this Court entered an Order granting Plaintiffs until June 13, 2012 to respond to the Motion to Dismiss.
4. Until 5 pm on June 12, 2012, attorneys from the Simon Law Firm, the lead attorneys in this case, did not have any notice of the above Motion or the Court's Order. They did not receive any electronic notice from this Court, although they assumed that they would be receiving notice of all filings and Orders in this removed case, in that they are registered with this Court's system and they

reliably receive notice of filings regarding other cases on which they are working which are filed with this Court.

5. The Simon Law attorneys (Erich Vieth and John Campbell) first learned of the above two filings on the evening of June 12, after speaking with co-counsel Greg White, who did receive electronic notice from this Court, but who assumed that the Simon Law Firm attorneys would, as lead attorneys on this case, be filing a timely answer.
6. In light of the above misunderstandings and/or technical glitches, Plaintiffs hereby request 15 additional days, up to and including Wednesday, June 27, 2012, to file their response to Defendant's Motion to Dismiss,. Plaintiffs are requesting this additional time due to the apparent complexity of the Defendant's motion, as well as due to a heavy litigation schedule over the next few weeks, including:
 - a. An all-day mediation and two complex hearings over the next three days, and
 - b. The need to draft a brief in opposition to a Petition for Writ of Certiorari to the United States Supreme Court, due to be sent in final form to the printer on June 29, 2012.
7. At about 6 pm on June 12, 2012, Plaintiffs' counsel discussed this matter with Ms. Rhiana Luaders of Bryan Cave, who kindly consented to the additional time being requested.

For these reasons, Plaintiffs hereby request additional time, up to and including June 27, 2012, in which to file their response to Defendant's Motion to Dismiss.

Respectfully submitted,

The Simon Law Firm, P.C.

By: /s/ Erich Vieth
Erich Vieth
800 Market Street, Suite 1700
St. Louis, MO 63101
Attorney for Plaintiffs

Gregory P. White
8000 Bonhomme, Suite 316
Clayton, Missouri 63105

Benjamin F. Westhoff
Westhoff Law Firm, LLC
7751 Carondelet Ave., Suite 800
St. Louis, MO 63105

Jerome Wallach
The Wallach Law Firm
3 City Place Drive, Suite 1070
St. Louis, MO 63141

John E. Campbell
The Simon Law Firm, P.C.
800 Market Street, Suite 1700
St. Louis, MO 63101
Attorney for Plaintiffs

(Co-Counsel for Plaintiffs)

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of June, 2012, the foregoing was sent via the Court's electronic filing system to those attorneys to whom this Court has directed service in this case, including:

BRYAN CAVE, LLP

Kevin M. Abel, #39568

Rhiana A. Luaders, # 56535

One Metropolitan Square

211 N. Broadway, Suite 3600

St. Louis, Missouri 63102

Telephone: 314-259-2000

Facsimile: 314-259-2020

ATTORNEYS FOR BANK OF AMERICA, N.A.,

SUCCESSOR BY MERGER TO BAC HOME

LOANS SERVICING, LP